IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 29108 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHISH JAMNADAS PAREKH - Petitioner(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR SP MAJMUDAR for Petitioner(s) : 1,
MR AA DAVE, AGP for Respondents

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 13/12/2007

ORAL JUDGMENT

1. Rule. Mr.A.A.Dave, learned AGP waives service of rule on behalf of the respondents.

2. By way of this petition, the present petitioner has challenged the impugned final order passed by respondent No.2, Dy.Collector, Stamp Duty Valuation, City Department, Rajkot dated 19.10.2002 whereby the petitioner is directed to pay deficit stamp fee of Rs.55,760/- and fine of Rs.250/-.

3. The petitioner had purchased a Flat from one Shri Kamlaben Navinchandra Rajpara, through her Power of Attorney Holder Shri Jitendra Jamndada Parekh for a consideration of Rs.2,35,000/- and for the said transaction, necessary sale deed was entered into between the parties on 17.10.2001 and at the time of registration, an amount of Rs.23,500/- was paid towards stamp duty.

3. Heard learned advocate for the petitioner and and Mr A.A. Dave, learned AGP for the respondents.

4. It is submitted by the learned advocate for the petitioner that thereafter nothing was heard from the authorities. However, when the petitioner wanted a title clearance certificate and had gone to the office of the respondent authority, he learnt that the deed had been postponed under Sec.32-C of the

Bombay Stamp Act and has passed the final order which is impugned in this petition.

5. According to the petitioner, he has neither received any notice nor the order and he received only a true copy of the same only on 16.7.2007, that also, in a printed form filling up some gaps without assigning any reasons, without hearing the petitioner which is in violation of the principles of natural justice and without application of mind. As there is no provision for condonation of delay in the Act and the appellate authority normally does not entertain the appeal beyond the prescribed period of limitation, the present petition has been filed before this Court.

6. In support of his submissions, learned advocate for the petitioner has placed reliance on the following decisions of this Court:

(1) 2003 (1) GLR 454 vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat

(2) 2006 (3) GLR 2252 (Mayurkumar J Patel v. Dy.Collector, Stamp Duty Valuation Department, Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without

applying mind towards any of the defences raised by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one and two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the court in the aforesaid decision. The present case is similar to those cases and hence the final order passed by the respondent authority is required to be quashed and set aside.

7. Considering the facts and circumstances of the case, it is apparent that the impugned order is passed in printed form by filling up some gaps only without giving any reasons. This clearly shows total non-application of mind on the part of the respondent- Authorities. Under these circumstances, the impugned orders are required to be quashed and set aside.

8. In the result, the petition is allowed. The impugned order dated 19.10.2002 passed passed by

the respondent No.2 is hereby quashed and set aside by remanding the matter to him for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. Respondent No.2 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

Rule is made absolute to the aforesaid extent. No order as to costs.

[M.D. SHAH, J.]

Sreeram.